

REMARKS

Claims 1-26, 29-50, and 52-129 are pending. A Final Office Action dated February 23, 2006 rejected Claims 1-26, 29-50, and 52-129. Applicant hereby amends Claims 1, 71, 86, and 101 and traverses. Pursuant to 37 C.F.R. § 1.116, Applicant hereby requests reconsideration.

SECTION 102 REJECTIONS

The Final Office Action rejected Claims 1 and 38 as being anticipated by Seltzer (U.S. Patent No. 5,462,295), stating, “Seltzer discloses a skate boot comprising a base 19 with an upper face and lower face, and an upper support for a user’s ankle having a first rigidity at a point near a user’s ankle and a second rigidity at lower regions of the boot...”

Applicant has amended Claim 1 to recite “...a second rigidity lower than the first rigidity in *a majority of the* portion of the upper support above the region of first rigidity”, thereby clarifying that, rather than having an upper support of uniform rigidity with a decreased rigidity only horizontally between slits as taught by Seltzer, a majority of Applicant’s upper support above the region of first rigidity has a second rigidity lower than the first rigidity. As Seltzer does not teach or fairly suggest this feature, Applicant submits that amended Claim 1 and its dependent Claim 38 are now allowable over Seltzer.

SECTION 103 REJECTIONS

Seltzer in view of Labonte

The Final Office action rejected Independent Claims 42 and 101 under 35 U.S.C. 103(a) as being unpatentable over Seltzer in view of Labonte (U.S. Patent No. 6,871,424), stating, “Labonte et al. does disclose a skate boot 14 able to be formed from layering composites of various rigidity, as recited in column 4, lines 33-37. It would have been obvious to one having ordinary skill in the art at the time of the invention to have molded the boot of Seltzer with the layers as taught by Labonte et al. in order to increase rigidity in desired portions and increase flexure in other portions


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of the boot.” With regard to Independent Claim 42 and amended Independent Claim 101, Applicant respectfully traverses.

Labonte does not teach varying the number of layers or varying the number of layers to vary the rigidity, as Applicant teaches. Instead, Labonte teaches a boot outer shell with two layers: an outer, more rigid shell for abrasion resistance, and an inner shell. Both layers encompass the entire boot of Labonte, and therefore produce a uniform rigidity of the entire boot. As Labonte neither teaches nor fairly suggests varying the number of layers at different portions of the boot, nor varying the number of layers to vary the rigidity, Applicant submits that Labonte does not remedy the failure of Seltzer to teach or fairly suggest the features recited in Independent Claim 42, and therefore that Independent Claim 42 is allowable over Seltzer in view of Labonte.

Applicant has amended Independent Claim 101, similarly to amended Independent Claim 1, to recite, “a second rigidity in *a majority of the* portion of the boot above the area of first rigidity”, thereby clarifying that, rather than having an upper support of uniform rigidity with a decreased rigidity only horizontally between slits as taught by Seltzer, a majority of Applicant’s upper support above the region of first rigidity has a second rigidity lower than the first rigidity. As Seltzer does not teach or fairly suggest this feature, Labonte’s layers do not remedy the failure of Seltzer to teach or fairly suggest every feature of the Claim.

Seltzer in view of Baikie

The Final Office Action rejected Independent Claim 71 as unpatentable over Seltzer in view of Baikie (U.S. Patent No. 3,934,892). With regard to amended Independent Claim 71, Applicant respectfully traverses.

Applicant has amended Independent Claim 71, similarly to amended Independent Claims 1 and 101, to recite, “a second rigidity in *a majority of the* portion of the boot above the area of first rigidity”, thereby clarifying that, rather than having an upper support of uniform rigidity with a decreased rigidity only horizontally between slits as taught by Seltzer, a majority of Applicant’s upper support above the region of first rigidity has a second rigidity lower than the first rigidity.

As Seltzer does not teach or fairly suggest this feature, and Baikie's skate attachment does not remedy Seltzer's failure to teach or fairly suggest each of the elements of amended Independent Claim 71, Applicant submits that amended Independent Claim 71 is now allowable over Seltzer in view of Baikie.

CONCLUSION

Applicant submits that all Independent Claims now pending in this application are in condition for allowance; thus, all Dependent Claims are also in condition for allowance. The Examiner is invited to telephone applicant's attorney if any questions remain.

Respectfully submitted,

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I hereby certify that this communication is being deposited with the United States Postal Service via first class mail under 37 C.F.R. § 1.08 on the date indicated below addressed to: **MAIL STOP AF**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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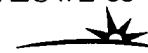
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